

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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NATIONAL RAILROAD PASSENGER
CORPORATION,

Plaintiff,

v.

ARCH SPECIALTY INSURANCE COMPANY;
ASPEN SPECIALTY INSURANCE COMPANY;
COMMONWEALTH INSURANCE COMPANY;
FEDERAL INSURANCE COMPANY; LEXINGTON
INSURANCE COMPANY; LIBERTY MUTUAL FIRE
INSURANCE COMPANY; CERTAIN
UNDERWRITERS AT LLOYD’S OF LONDON and
CERTAIN LONDON MARKET COMPANIES
Subscribing to Policy Nos. 507/N11NA08240,
507/N11NA08241, 507/N11NA08242,
507/N11NA08244, 507/N11NA08244,
507/N11NA08245 and GEP 2944; MAIDEN
SPECIALTY INSURANCE COMPANY; MAXUM
INDEMNITY COMPANY; NAVIGATORS
INSURANCE COMPANY; PARTNER
REINSURANCE EUROPE plc; RSUI INDEMNITY
COMPANY; STEADFAST INSURANCE COMPANY;
TORUS SPECIALTY INSURANCE COMPANY; and
WESTPORT INSURANCE CORPORATION,

Defendants.

No. 14 Civ. 7510 (JSR)

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**NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT
(REPLACEMENT OF TRACK BED)**

PLEASE TAKE NOTICE that, upon the accompanying, Declaration of Christopher S. Finazzo, Esq. and the exhibits annexed thereto, the accompanying memorandum of law, and upon all prior pleadings and proceedings in this matter, Defendants Arch Specialty Insurance Company, Aspen Specialty Insurance Company, Commonwealth Insurance Company, Federal Insurance Company, Lexington Insurance Company, Liberty Mutual Fire Insurance Company, Certain

Underwriters at Lloyd's of London, and Certain London Market Companies Subscribing to Policy Nos. 507/N11NA08240, 507/N11NA08241, 507/N11NA08242, 507/N11NA08244, 507/N11NA08244, 507/N11NA08245 and GEP 2944, Maiden Specialty Insurance Company, Maxum Indemnity Company, Navigators Insurance Company, Partner Reinsurance Europe plc, RSUI Indemnity Company, Steadfast Insurance Company, Torus Specialty Company, and Westport Insurance Corporation, hereby move this Court, before the Honorable Jed. S. Rakoff, United States Courthouse for the Southern District of New York, Room 14-B, 500 Pearl Street, New York, New York 10007, for an order declaring, as a matter of law, that Amtrak's claim for "portal to portal" replacement of the track beds (rails, ties and ballast) in the East River Tunnel tubes and North River Tunnel tubes fails for lack of proof and is not a claim on which relief can be granted.

PLEASE TAKE FURTHER NOTICE that the schedule for briefing of this motion is set forth in the Case Management Plan:

Moving Papers: February 23, 2015

Answering Papers: March 9, 2015

Reply Papers: March 16, 2015

Oral Argument: March 23, 2015

Dated: New York, New York
February 16, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of February, 2015, I caused a true and correct copy of the Notice of Motion for Partial Summary Judgment (Replacement of Track Bed) of Defendants Arch Specialty Insurance Company, Aspen Specialty Insurance Company, Commonwealth Insurance Company, Federal Insurance Company, Lexington Insurance Company, Liberty Mutual Fire Insurance Company, Certain Underwriters at Lloyd's of London, and Certain London Market Companies Subscribing to Policy Nos. 507/N11NA08240, 507/N11NA08241, 507/N11NA08242, 507/N11NA08244, 507/N11NA08244, 507/N11NA08245 and GEP 2944, Maiden Specialty Insurance Company, Maxum Indemnity Company, Navigators Insurance Company, Partner Reinsurance Europe plc, RSUI Indemnity Company, Steadfast Insurance Company, Torus Specialty Company, and Westport Insurance Corporation to be served via CM/ECF and by e-mail, upon counsel for the aforementioned Defendants and upon the following counsel for Plaintiff:

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